IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11673 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AD JARIWALA

Versus

CENTRAL PROVIDENT FUND COMMI9SSIONER

Appearance:

1. Special Civil Application No. 11673 of 2001

MR DHARMESH V SHAH for Petitioner No. 1

MR BHARAT T RAO for Respondent No. 1

MR PJ MEHTA for Respondents No. 1,2

NOTICE SERVED BY DS for Respondent No. 3

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 19/02/2002

ORAL JUDGEMENT

1. Mr.P.J. Mehta, learned advocate appearing for the respondents Nos.1, 2 and 3 files affidavit-in-reply.

The same is taken on record.

1.1. Rule. Mr.Mehta learned advocate appearing for the respondents Nos.1 and 2 waives service of rule. With consent of the parties the matter is taken up for final disposal today.

2. In the present petition, the petitioner prayed for quashing and setting aside the impugned order at annexure-A collectively dated 29.11.2000, 11.4.2001 and 16.4.2001 passed by the respondent authority that is, Assistant Provident Fund Commissioner, Surat, under Section 7A of the Act. The said order was passed without taking into consideration the case of the petitioner despite the fact that documents were produced before the authorities by a list, a copy of which is produced at annexure - D page 26 to the petition. The authority did not take into consideration any of those documents and passed orders which are challenged in this petition. Mr.P.J. Mehta, learned counsel for the respondent authorities could not point out any justifiable ground for which the authorities did not take into consideration these documents. Thus the orders passed by the authorities are ex-parte and also violative of the principles of natural justice. As the documents which were sought to be relied upon by the petitioner were not taken into consideration by the authorities Mr.D.V. Shah learned advocate appearing for the petitioner submitted that no prejudice will be caused if the said orders are quashed and set aside. The matter is remanded to the authorities to decide afresh after taking into consideration the documents which are listed at annexure-D to this petition.

3. In the result, the orders challenged in this petition produced at annexure-A collectively dated 29.4.2000, 11.4.2001 and 16.4.2001 are hereby quashed and set aside. The matter is remanded to the Assistant Provident Fund Commissioner, Surat to decide afresh after giving an opportunity of hearing to the present petitioner and also after taking into consideration the documents which are listed at annexure-D to this petition. Rule is made absolute to the aforesaid extent with no order as to costs. It is also directed that the matter be decided within 10 weeks from the date of the receipt of this order and till the matter is decided the authorities shall not resort to coercive recovery of the amount in question.

(Ravi R. Tripathi, J.)

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